

COUNTY OF SANTA CRUZ

Personnel Department

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August 20, 1998

Agenda: September 1, 1998

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

CIVIL SERVICE COMMISSION RULE CHANGES

Dear Members of the Board:

The Civil Service Rules establish leaves of absence rules, which state that an employee may not be absent for more than one year and retain their County job. However, state law provides that an employee may be off for more than a year due to a work-related injury.

To correct this conflict between state law and County rules, the Personnel Department recommended to the Civil Service Commission that the Civil Service Rules be amended to allow for workers compensation-related leaves of longer than one year.

In addition, County rules only allow substitute appointments for up to one year when filling behind an employee on a leave of absence. This has led to the untenable position of bumping a substitute out of a position after a year, even though the original employee continues on their leave of absence. The proposed rule changes also allow for substitute appointments to continue longer than one year in the case of leaves caused by workers compensation injuries.

The Commission approved the recommended changes to the Civil Service Rules, and is recommending those changes to the Board for approval. Changes to Civil Service Commission Rules require approval of both the Civil Service Commission and the Board of Supervisors.

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The section proposed for amendment are shown in the attachment with the recommended additions underlined and deletions shown with slashes.

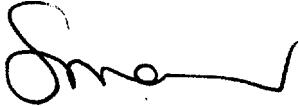
Therefore, IT IS RECOMMENDED that your Board adopt the attached amendment to Resolution No. 247-76 to amend the Personnel Regulations with the attached revisions to the Civil Service Commission rules.

Very truly yours,



Patricia Pfremmer, Chair
County Civil Service Commission

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

RECOMMENDED:



Dania Torres-Wong
Personnel Director

Attachment: Proposed Resolution with Changes Attached

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO.

On the motion of Supervisor
duly seconded by Supervisor
the following resolution is adopted:

RESOLUTION AMENDING PERSONNEL REGULATIONS

WHEREAS, the Civil Service Commission has adopted changes to Civil Service rules changing the leave of absence and substitute appointment duration beyond the one-year maximum for an approved workers' compensation claim.

WHEREAS, it is now desirable and necessary to amend said resolution to effect said changes; and

BE IT RESOLVED AND ORDERED that Personnel Regulation 130, Sections IV and XI and Part 160, Salary, Compensation and Leave Provisions, be amended as shown on Attachment A.

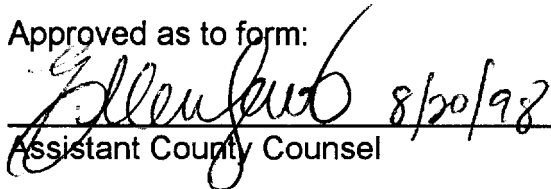
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this d a y o f _____, 1998, by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS

JANET K. BEAUTZ, Chairperson of the Board

ATTEST: _____
Clerk of the Board

Approved as to form:

 8/20/98

Assistant County Counsel

cc: All Departments, Personnel (2)

CIVIL SERVICE RULES
SECTION IV

APPOINTMENT AND PROBATION

- J. **Substitute Appointments.** A substitute appointment may be made to a position in the Classified Service for a vacancy created by an authorized absence, or for a vacancy created by an extended disability leave covered under Labor Code Section 4850. A substitute appointment may be accomplished through a probationary or provisional appointment. Notwithstanding any other provisions of these rules, a person appointed as a substitute retains probationary or provisional status during the entire period of leave of absence not to exceed one (1) year in length. For workers' compensation related leaves only, state law may require the County to extend a leave of absence beyond one year. Determinations to extend such leaves beyond one year are subject to the approval of the Personnel Director. If the Personnel Director extends a workers' compensation related leave for a period beyond one year, a person appointed as a substitute retains probationary or provisional status during the entire period of the approved leave of absence. If after one-(1)-year a substitute appointment is not transitioned to a regular probationary appointment by the end of the approved leave of absence he/she will be terminated. The substitute appointment will end concurrent with the return from leave of the incumbent, unless the department head authorizes an overlap of up to ten (10) working days. The name of any person appointed as a substitute shall remain on any eligible list they are on at the time of the substitute appointment, or any eligible list they may be placed on during the substitute appointment. (Amended 8/12/81; Res. 222-90, 4/17/90)

Probationary service accrued during a substitute appointment may be credited towards permanent status provided that:

1. at the expiration of the substitute appointment the employee is selected from the eligible list for appointment to a permanently vacated position; and
2. the employee was evaluated on a regular basis as prescribed in these rules during the period of substitute appointment and received overall satisfactory or better evaluations; and
3. the department head certifies that the employee was assigned the full range of duties and responsibilities during the period of substitute appointment and performed satisfactorily or better.

CIVIL SERVICE RULES
SECTION XI

LEAVES OF ABSENCE

- A. Military Leave. Any employee required to perform active military service shall be granted the leave of absence provided by law.
- B. Leave of Absence Without Pay. Any employee having permanent status may be granted a leave of absence not to exceed one year, on the recommendation of the department head and approval of the Personnel Director for the purpose of improving his/her training for his/her position, or in the case of extended illness for which sick leave with pay is not available, or in the event of urgent personal affairs requiring the full attention of the employee. Notwithstanding the above, a leave of absence may exceed one year in the case of an accepted workers' compensation injury.
- C. Return from Leave of Absence. The granting of a leave of absence to an employee guarantees the right of his/her return at its expiration, or an earlier date mutually agreed upon by the department and the employee, and any person appointed to fill the vacancy during the leave holds it subject to the prior right of the employee on leave. An employee failing to return upon expiration of the leave shall be regarded as having automatically resigned. (Amended 9/15/81; 1/4/83)
- D. Involuntary Leave of Absence Without Pay for Medical Reasons at Direction of Appointing Authority. (Added 6/4/85; Res. 311-85; Amended 9/17/85; Res. 523-85)

An appointing authority may, with the prior approval of the Personnel Director, place an employee on an involuntary leave of absence without pay for medical reasons. Conditions and requirements for such leaves are described below.

- 1. Placement of a Leave Employee. If an employee on leave of absence for illness or injury wants to return to work or intends to return to work and there are sufficient grounds to believe that the employee may not be able to perform the assigned duties, the department head may place the employee on an involuntary leave of absence without pay with proper notice until: (a) the employee provides additional information on his/her medical condition including any work limitations; or the employee completes another medical examination to determine fitness for duty including any work limitations; and (b) the department receives and evaluates the required information and determines that the employee is fit to return to work or what accommodations, if any, can be made to the employee's work limitations. The department may make reasonable accommodations to permit the employee to return to work in a modified capacity or modified conditions for a specified period of time.

Each of the following conditions must be met in placing an employee on such an involuntary leave of absence without pay.

- a. The Personnel Director reviews the circumstances, information available and the recommendation of competent medical professionals, and determines that there are sufficient grounds to approve such leave.
- b. The department provides the employee with a written notice of the leave which identifies beginning and ending dates, the reason for the leave, any conditions for the leave, and the appeal process.
- c. The department must proceed with due haste in a timely manner to schedule any medical examination it desires for the employee, and in reaching a decision after the result of the examination and/or additional information from the employee's physician is received.
- d. The Personnel Director shall set review dates on each such leave, with the first review no later than 30 calendar days from the beginning of the leave.
- e. At the discretion of the department, any approved leave may be terminated and the employee returned to work before the ending date established for the leave.

2. Placement of a Current Employee. With proper notice, an appointing authority may place an employee on an involuntary leave of absence without pay when he/she believes; based on statements of the employee or other information, that the employee has medical or health problems which endanger the safety of the employee or others, or which prevent or limit the performance of the employee assigned duties. Such leave, which may be based on performance, is not punitive but is for diagnosis and treatment purposes and, when relevant, to maintain the safety of the employee and/or others.

Each of the following conditions must be met in placing an employee on such an involuntary leave of absence without pay:

- a. The Personnel Director reviews the circumstances, information available and the recommendation of competent medical professionals, and determines that there are sufficient grounds to approve such leave.
- b. The department provides the employee with a written notice of the leave which identifies beginning and ending dates, the reason for the leave, any conditions for the leave, conditions for return from leave, and the appeal process.

- c. **The Personnel Director shall set review dates on each such leave, with the first review no later than 30 calendar days from the beginning of the leave.**
 - d. **At the direction of the department, any approved leave may be terminated and the employee returned to work or paid status before the ending date established for the leave.**
- 3. **No leave of absence, whether voluntary or involuntary or a combination of the two, shall exceed one year, except that a leave for an accepted workers' compensation injury may exceed one year.**
- 4. **Any appeals of leaves of absence in accordance with (1) and (2), above, shall be limited to the issue as to whether or not there are sufficient grounds for an involuntary leave.**
- 5. **"Proper Notice" Defined. "Proper notice" means a written statement from the department and sent to the employee prior to action taken. The notice shall include a copy of the provisions of this section.**

PART 160: SALARY, COMPENSATION & LEAVE PROVISIONS**166.7 DISABLED SAFETY EMPLOYEES.**

Whenever safety employees become entitled to a leave of absence due to a disability or injury or illness arising out of and in the course of their duties, pursuant to California Labor Code Section 4850, and such employees are absent from duty with pay for a period of 30 days, such employees may be reassigned at the request of the appointing authority and upon the approval of the Director to a special inactive position to permit an appointment to the employees' regular positions. Upon completion of such a reassignment, the employees' vacated positions may be filled through regular appointment procedures. (Ord. 1287, 1/23/68)

It shall be the responsibility of the appointing authority to request sufficient funds for the additional position from the Board of Supervisors

PART 160: SALARY, COMPENSATION & LEAVE PROVISIONS

SECTION 168

LEAVE WITHOUT PAY*

168.1 LEAVE OF ABSENCE WITHOUT PAY.

- A. The granting of any leave of absence without pay shall be based on the presumption that the employee intends to return to work upon the expiration of the leave and with the understanding that the primary purpose of the leave of absence without pay is not to seek or accept other employment. No leave of absence shall be granted by a department when an employee has indicated that he/she intends to terminate or is terminating from regular County service without the prior approval of both the Personnel Director and Risk Manager.
(Res. 486-90, 8/7/90)**

B. Departmental Leave of Absence Without Pay.

- 1. Full-time Employees. A departmental leave of absence without pay shall not exceed 160 working hours.
(Res. 106-92)**
- 2. Part-time Employees. A departmental leave of absence without pay shall not exceed hours proportionate to 160 for a full-time employee (e.g., 80 for an employee whose scheduled hours are 20 per week, 120 for an employee whose scheduled hours are 30 per week).**
- 3. Eligibility.**
 - a. Permanent and Non-Civil Service Employees. An employee who has permanent or non-Civil Service status in their present class may be granted leave of absence without pay by the appointing authority:**
 - (1) for the purpose of improving the training of the employee for their position or career in the County Service; or**
 - (2) for extended illness for which paid leave is not available; or**
 - (3) in the event of urgent personal affairs that required the full attention of the employees; or**
 - (4) for other personal reasons (other than to seek or accept employment), provided such leave is granted in a consistent manner for similarly situated employees.**

*NOTE: See Section 168.4 regarding Family Care or Medical Leaves of Absence.

- b. Probationary and Provisional Employees on Original Appointment. Employees on an original appointment with probationary or provisional status may be granted a departmental leave without pay by the appointing authority in the case of illness or where it is clearly in the best interest of the County and requires the full attention of the employee.
- c. Extra-Help Employees. Extra-help employees are not eligible for leave of absence without pay.

- C. County Leaves of Absence Without Pay. Employees may be granted a leave of absence without pay in excess of those provided in paragraphs 1 and 2 of B, above, subject to the prior approval of the Personnel Director. (Res. 706-81, 9/15/81; Res. 106-92)

The maximum period of leave of absence without pay is one (1) year, except for a leave of absence for an accepted workers' compensation injury, pursuant to Civil Service Rule XI B. (Res. 106-92)

- D. Right of Return.

- 1. Permanent Employees. The granting of a leave of absence to an employee who has permanent status in her/his present class guarantees the right of her/his return to a position in the same class in her/his department at his expiration, or an earlier date mutually agreed upon by the department and the employee. (Ord. 489; Ord. 1113; Ord. 1655)
- 2. Probationary and Provisional Employees on Original Appointment and Non-Civil Service Employees. The granting of a leave of absence without pay to an employee on an original appointment with probationary or provisional status or in a position with non-Civil Service status does not guarantee the right of return.

- E. Effect of Leave of Absence Without Pay on Service Hours. Leaves of absence without pay shall be deducted from hours served for purposes of step advancement, probationary period, and County service, except as may be required by Worker's Compensation provisions.

- F. Limitation on Use

- 1. Employees must use all accumulated compensatory time off prior to the effective date of any leave of absence.
- 2. Employees must use all earned sick leave prior to the effective date of any leave of absence without pay in case of illness.
- 3. Departments may establish conditions pertaining to the period of leave of absence without pay and requirements for return from

such leave which must be mutually agreed upon before the leave is approved.

4. Specific beginning and ending dates must be identified for any leave without pay.
 5. Paid leave shall not be received or earned for any period of leave of absence without pay.
- G. **Failure to Return.** Any employee who fails to return upon the expiration of any leave of absence without pay shall be regarded as having automatically resigned. (Ord. 489, 5/15/56; Ord. 1113, 8/3/65; Ord. 1655, 11/23/71; Res. 376-77, 6/24/77; Res. 637-81, 8/4/81; Res. 706-81, 9/15/81)
- H. **Continuation of Insurance Benefits During Leave Without Pay.** To assure continuation of insurance benefits, employees must notify the Risk Management Division of the County Personnel Department when granted a leave of absence without pay in excess of one pay period. (Res. 422-84, 7/24/84)

(Amended 2/5/94, Res. 39-94)